AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Darnell Underwood, et al.,
Plaintiff
v.
City of New York, et al.,
Defendant

Civil Action No. 14 CV 7531 (RRM) (PK)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Woodhull Hospital, Medical Records Dept.
760 Broadway, Brooklyn, New York 11206
(Name of person to whom this subpoena is directed)

☑ *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: All records, electronic, or otherwise, concerning all medical treatment sought by, rendered to, or refused by the following people at Woodhull Hospital from 11:45pm on 8/5/2014 through 8/7/2014: (i) Darnell Underwood; (ii) David Underwood; and/or (iii) the person identified in the attached FDNY call report (No.: 4122).

Place: Law Office of Robert Marinelli, 305 Broadway, Suite 1001, New York, N.Y. 10007	Date and Time: 01/06/2017 10:00 am

☐ *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/14/2016

SO ORDERED:

Peggy Kuo

PEGGY KUO
United States Magistrate Judge

OR

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____ , who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

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PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____ .

❒ I served the subpoena by delivering a copy to the named person as follows: _____

_____

_____ on *(date)* _____ ; or

❒ I returned the subpoena unexecuted because: _____

_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of $ _____ .

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc.:

Print Save As... Add Attachment Reset

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) ***For a Trial, Hearing, or Deposition.*** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) ***For Other Discovery.*** A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) ***Avoiding Undue Burden or Expense; Sanctions.*** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) ***Command to Produce Materials or Permit Inspection.***

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) ***Quashing or Modifying a Subpoena.***

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) ***Producing Documents or Electronically Stored Information.*** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) ***Claiming Privilege or Protection.***

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

FDNY CALL REPORT
(CALL #: 4122)

Prehospital Care Report Summary

FDNY

Date:08/05/2014 **Call #:**4122 **Booklet:**81048298 **Branch:** STA57 **Time Zone:**America/New_York

Call Information:

Disposition: Treated/Transported
Unit #: 37B1 - 37B Tour 1: 2300-0700, Ground-Ambulance **Trip Type:** N/A
Run Type to Scene: Emergency Scheduled: No
Incident Facility:
Incident Location: 25 CENTRAL AV - Brooklyn, NY 11206 (Kings County)
Incident Type: Scene of Accident or Acute Event - Jail

Receiving Facility: 45 - Woodhull (Hospital) - 760 Broadway - Brooklyn, NY 11206
Facility Address: 760 Broadway #K - Brooklyn, NY 11206
Destination Type: N/A
Dest. Reason: Nearest Facility
Registration # N/A

Loaded Mileage: 0.7 (Total Mileage: 0.7)
Crew Members: Daniel Fazzino, EMT Basic*(DOC)*; Dwayne Stewart, EMT Basic*(DS)(DH)*; PD 8PD, No Certifications

# Patients Transported	
In My Unit:	1
# Patients at Scene:	1

Call Received:	23:12:09
Dispatched:	23:38:11
En Route:	23:38:35
On Scene:	23:41:22
Patient Contact:	23:52:00
Left Scene:	00:01:00
At Destination:	00:06:00
Transfer of Care:	N/A
In Service:	N/A

Time On Scene:	20 Min
Time to Destination:	28 Min
Total Time of Run:	N/A Min

Moved to Amb By: Stretcher **Transport Position:** Semi/Full Fowlers **From Amb By:**

Other Units On Scene: 35D3, C571

Call Origin: 911 **Lights/Siren:** Scene / Destination-Not used

Patient Information:

Name: DAVID UNDERWOOD
Address: UNKNOWN
Phone:
Email:
SSN: –
Driver License:

DOB: 02/05/1996
Gender: Male
Age: 18 Years
Weight: **Broselow:**

Other Contact Info
Name: **Phone:** **Cell Phone:**
Relationship:

Current Meds: ALBUTEROL
Env Allergies: NKA
Med Allergies: NKDA
Patient Physician:
Advanced Directives:
PMH: Asthma
Comment:

Comments:
Comments:
Comments:

Payer Information:

Priority: Primary **Name:** Self Pay **Type:** **Policy #:** **Group #:**
Policy Holder: , , Apt , **Phone:** **DOB:**
Relationship of Patient to Insured:

Clinical:

Medical Need:

Onset Date/Time: 08/05/14
Dispatch Reason (EMD): INJURY INJURY - Non-Critical Injury

Chief Complaint: PSYCH EVAL
Provider Impression: Behavioral Disorder
Mechanism of Injury: NA

Protocol 1: **Protocol 2:**

Assessments:

Time	Employee	Type	Summary
		ABC	**Airway:** Patent **Breathing:** Normal **Quality:** Unlabored **Lung Sounds: Left:** Clear **Lung Sounds: Right:** Clear **Skin Color:** Normal **Skin Temperature:** Normal **Skin Condition:** Normal
		Head To Toe	**Head and Neck:** **Left Eye:** Reactive **Right Eye:** Reactive
		Neurological	**AVPU:** Alert

Vitals:

Time	Employee	Summary
23:52:00	Fazzino, Daniel	

Treatments/Medications:

Time	Employee	Summary
23:47:00	8PD, PD	**Treatment- Restrained by PD** **Attempts:** N/A **Success:** Yes **Level:** BLS **Comments:** ESU BAG
23:52:00	Fazzino, Daniel	**Treatment- Med/Oxygen Administration** **Attempts:** N/A **Success:** Yes **Level:** BLS **Medication - Oxygen by Non-Rebreather Mask** **Dose:**10 **Unit:** LPM **Route:** Inhalation **Attempts:** N/A **Success:** Yes **Level:** BLS
23:52:00	Fazzino, Daniel	**Treatment- 1 - BLS Assessment** **Attempts:** N/A **Success:** Yes **Level:** BLS

Supply

Qty	Supply

EKG Device Incident Number:

FlexFields:

FlexField	Value
23:47 Flow Chart: Medication Restrained by PD - Medication Complication	None
23:52 Flow Chart: Medication 1 - BLS Assessment - Medication Complication	Not Known
23:52 Flow Chart: Medication Med/Oxygen Administration Oxygen by Non-Rebreather Mask - Medication Complication	Not Available

Narrative History Text:

APPROX 18 Y/O MALE FOUND IN CUSTODY OF POLICE RESTRAINED IN FULL ESU BODY RESTRAINT BAG. PD STATES PT WAS RESISTING ARREST AND BEING AGGRESSIVE. UNABLE TO OBTAIN INFORMATION AND ASSESSMENT AND VITALS DUE TO PT UNCOOPERATIVNESS AND AGGRESSION, PT SPITTING AT PD PLACED O2 VIA NRB @ 10 LPM, TRANSPORTED TO 45

Unable to Sign:
Unable to Sign Reason: Physically Incapable
Authorized Representative: No authorized representative is available or willing
Authorized Representative Signature: No
Secondary Documentation: Unable to obtain secondary documentation
Secondary Documentation Signature: No
Comment:
RESTRAINED BY ESU

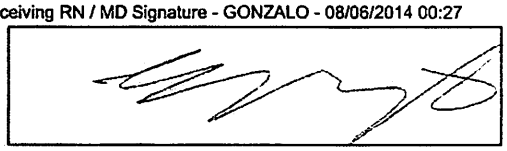
Auth Signature: No **Privacy Sig:** No **Unable to Sign:** Yes **Refused to Sign:** No

Signature Image(s):

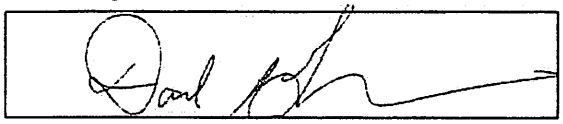
Authorization Signature

Privacy Notice Signature

Receiving RN / MD Signature - GONZALO - 08/06/2014 00:27



Technician Signature - Fazzino, Daniel - 08/06/2014 00:33



FIRE DEPARTMENT – CITY OF NEW YORK
I hereby certify pursuant to CPLR 2306 and 2307 that this document is a true and accurate copy of a Fire Department record kept in the regular course of Fire Department business.
Signature: Victoria Isaac Date: 11/28/16
Print Name: Victoria Isaac Unit: 01A